

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

| | | |
|---------------------------------|---|--------------------------------------|
| John E. Thompson, |) | Case Number: 2:08-CV-2423-PMD |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | DEFENDANT CDL PARTNERS, LLC'S |
| CDL Partners, LLC, |) | MOTION FOR SUMMARY JUDGMENT |
| |) | |
| Defendant/Third-Party Plaintiff |) | |
| |) | |
| v. |) | |
| |) | |
| Don Alvin Messervy |) | |
| |) | |
| Third-Party Defendant. |) | |
| |) | |

YOU WILL PLEASE TAKE NOTICE THAT Defendant CDL Partners, LLC, through its undersigned counsel, moves for an Order granting summary judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure. The basis for this motion is CDL Partners, LLC did not breach a duty owed to Plaintiff, had no notice of any defect, and Plaintiff altered the very railing which he now complains was defective. Furthermore, Plaintiff cannot, nor will he ever be able to, establish a genuine issue of fact or the necessary elements to prevail on claims of negligence or breach of the South Carolina Residential Landlord and Tenant Act. There is no genuine issue as to any material fact that would allow Plaintiff to recover under either cause of action in Plaintiff's Complaint, which was filed July 3, 2008, and, therefore, Defendant CDL Partners, LLC is entitled to summary judgment as a matter of law.

This motion will be supported by applicable statutory and case law, the Rules of Civil Procedure, and the attached memoranda of law.

Respectfully submitted,
COLLINS & LACY, P.C.

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Columbia, South Carolina
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